

House Bill 982 (AS PASSED HOUSE AND SENATE)

By: Representative Williamson of the 115th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to
2 financial institutions, so as to repeal Article 4, relating to the sale of checks or money orders,
3 and Article 4A, relating to the cashing of checks, drafts, or money orders for consideration,
4 and to enact new Articles 4 and 4A; to provide for definitions; to provide for authorized
5 activities; to provide for the transaction of business without a license; to provide for
6 exemptions from licensure requirements; to provide for application for license for the sale
7 of payment instruments or the transmission of money; to provide for application for license
8 for cashing payment instruments; to provide for the treatment of mobile payment instrument
9 cashing facilities; to provide for authorized agents to act on behalf of licensees; to provide
10 for bond requirements; to provide for participation in a uniform multistate automated
11 licensing system by the Department of Banking and Finance to facilitate oversight and
12 issuance of licences; to provide for investigation of license applicants by the department; to
13 provide for reporting requirements; to provide for the requirement of a unique identifier; to
14 provide for renewal of licenses; to provide for the transferring of licenses; to provide for
15 notice to the department by licensees in certain instances; to provide for maintenance of
16 books and records by a licensee; to provide for exemptions from civil liability; to provide for
17 authority to enact rules and regulations; to prohibit certain acts; to provide for the power to
18 suspend and revoke licenses; to provide for judicial review; to provide for enforcement
19 procedures; to provide for cease and desist orders; to provide for civil penalties; to provide
20 for criminal penalties; to provide for construction of the article; to provide for a transition
21 period; to provide for related matters; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Chapter 1 of Title 7 of the Official Code of Georgia Annotated, relating to financial
25 institutions, is amended by repealing Article 4, relating to the sale of checks or money orders,
26 and enacting a new Article 4 to read as follows:

H. B. 982

27

"ARTICLE 428 7-1-680.29 As used in this article, the term:30 (1) 'Authorized agent' means a person designated by a licensee pursuant to Code Section
31 7-1-683.1 to engage in money transmission, the sale of payment instruments, or the
32 issuance of payment instruments.33 (2) 'Check' means any check, money order, draft, or negotiable demand instrument.34 (3) 'Closed-loop transaction' means a transaction where the value or credit is primarily
35 intended to be redeemed for a limited universe of goods, intangibles, services, or other
36 items provided by the issuer of the payment instrument, its affiliates or agents, or others
37 involved in the transaction functionally related to the issuer or its affiliates or agents.38 (4) 'Commissioner' means the commissioner of banking and finance.39 (5) 'Control,' 'controlling,' 'controlled by,' or 'under common control with' means the
40 direct or indirect possession of power to direct or cause the direction of the management
41 and policies of a person.42 (6) 'Covered employee' means any employee of a licensee or an authorized agent
43 engaged in any function related to the selling of payment instruments or money
44 transmission.45 (7) 'Department' means the Department of Banking and Finance.46 (8) 'Executive officer' means the chief executive officer, president, chief financial officer,
47 chief operating officer, each vice president with responsibility involving policy-making
48 functions for a significant aspect of a person's business, secretary, treasurer, or any other
49 person performing similar managerial or supervisory functions with respect to any
50 organization, whether incorporated or unincorporated.51 (9) 'Individual' means a natural person.52 (10) 'Licensee' means a person, including, but not limited to, a money transmitter and a
53 payment instrument seller, duly licensed by the department pursuant to this article.54 (11) 'Misrepresent' means to make a false statement of a substantive fact. The term may
55 also mean to engage in any conduct which leads to a false belief which is material to the
56 transaction.57 (12) 'Monetary value' means a medium of exchange, whether or not redeemable in
58 money.59 (13) 'Money transmission,' 'transmit money,' or 'transmission of money' means engaging
60 in the business of receiving money or monetary value for transmission or transmitting
61 money or monetary value within the United States or to locations abroad by any and all

62 means, including, but not limited to, an order, wire, facsimile, or electronic transfer. The
63 term does not include closed-loop transactions.

64 (14) 'Money transmitter' means a person licensed under this article to transmit money.

65 (15) 'Nation-wide Multistate Licensing System and Registry' means a licensing system
66 developed and maintained by the Conference of State Bank Supervisors and the
67 American Association of Residential Mortgage Regulators for the licensing and
68 registration of certain persons engaged in nondepository activities.

69 (16) 'Open-loop transaction' means a transaction using a payment instrument with stored
70 value to redeem for goods or services at any location that accepts such payment
71 instrument.

72 (17) 'Payment instrument' means any instrument, order, or device for the payment or
73 transmission of money or monetary value, whether or not it is a negotiable instrument
74 under the terms of Article 3 of Title 11, relating to negotiable instruments. The term
75 includes, but is not limited to, checks, money orders, drafts, stored value cards, and
76 open-loop transactions. The term does not include closed-loop transactions, credit card
77 vouchers, letters of credit, or any instrument that is redeemable by the issuer only in
78 specific goods or services of the issuer.

79 (18) 'Payment instrument holder' means a person that has purchased a payment
80 instrument from a payment instrument seller or who has had monetary value transmitted
81 by a money transmitter.

82 (19) 'Payment instrument issuer' or 'payment instrument seller' means a person licensed
83 under this article to engage in the issuance or sales of payment instruments.

84 (20) 'Person' means any individual, sole proprietorship, corporation, limited liability
85 company, partnership, trust, or any other group of individuals, however organized.

86 (21) 'Sale' and 'selling' mean the passing of title from the payment instrument seller or
87 the payment instrument seller's agent to a payment instrument holder or remitter or an
88 agreement to transfer money or monetary value.

89 (22) 'Sale of payment instruments,' 'selling of payment instruments,' or 'issuance of
90 payment instruments' means the creation, issuance, or sale of a payment instrument that
91 is redeemable in cash or monetary value.

92 (23) 'Signed' shall have the same meaning as provided in paragraph (39) of Code Section
93 11-1-201.

94 (24) 'Ultimate equitable owner' means a person that:

95 (A) Owns, directly or indirectly, a 10 percent or more interest in a corporation or any
96 other form of business organization;

97 (B) Owns, directly or indirectly, 10 percent or more of the voting shares of any
98 corporation or any other form of business organization; or

99 (C) Exerts control, directly or indirectly, over a corporation or any other form of
 100 business organization, regardless of whether such person owns or controls such interest
 101 through one or more natural persons or one or more proxies, powers of attorney,
 102 nominees, corporations, associations, limited liability companies, partnerships, trusts,
 103 joint stock companies, other entities or devices, or any combination thereof.

104 (25) 'Unique identifier' means a number or other identifier assigned by protocols
 105 established by the Nation-wide Multistate Licensing System and Registry.

106 7-1-681.

107 (a) Pursuant to this article, the department may license a person to engage in the sale of
 108 payment instruments or the transmission of money.

109 (b) A license for the sale of payment instruments authorizes the licensee to sell payment
 110 instruments and to transmit money.

111 (c) A license for the transmission of money authorizes the licensee to transmit money.

112 (d) No person, regardless of the location of such person, its facilities, or its agents, shall
 113 engage in the sale of payment instruments or money transmission without having first
 114 obtained a license authorizing such activity under this article. This prohibition applies
 115 whether or not a person utilizes a branch, subsidiary, affiliate, or agent in this state. A
 116 person is deemed to be engaged in the sale of payment instruments or money transmission
 117 if the person advertises any of those services, provides any of those services with or
 118 without compensation, solicits to provide any of those services, or holds itself out as
 119 providing any of those services to or from this state, even if the person has no physical
 120 presence in this state.

121 (e) Every person that directly or indirectly controls another that violates subsection (d) of
 122 this Code section, including but not limited to each general partner, executive officer, joint
 123 venture, ultimate equitable owner, or director of such person, and every person occupying
 124 a similar status or performing similar functions as such person violates with and to the
 125 same extent as such person. Any person that directly or indirectly controls a person that
 126 violates subsection (d) of this Code section may avoid liability if such person sustains the
 127 burden of proof that the person did not know and, in the exercise of reasonable care, could
 128 not have known of the existence of the facts by reason of which the original violation is
 129 alleged to exist.

130 7-1-682.

131 The requirement for licensure set forth in this article shall not apply to:

132 (1) Any state or federally chartered bank, trust company, credit union, savings and loan
 133 association, or savings bank with deposits that are federally insured;

- 134 (2) Any authorized agent of a licensee;
 135 (3) The United States Postal Service;
 136 (4) A state or federal governmental department, agency, authority, or instrumentality and
 137 its authorized agents;
 138 (5) Any foreign bank that establishes a federal branch pursuant to the International Bank
 139 Act, 12 U.S.C. Section 3102; or
 140 (6) An individual employed by a licensee or any person exempted from the licensing
 141 requirements of this article when acting within the scope of employment and under the
 142 supervision of the licensee or exempted person as an employee and not as an independent
 143 contractor.

144 7-1-683.

145 (a) Each applicant for a license under this article shall:

146 (1) Submit an application in writing, which is made under oath and in such form as the
 147 department may prescribe;

148 (2) Furnish to the Nation-wide Multistate Licensing System and Registry the following
 149 information:

150 (A) The legal name and principal office address of the person applying for the license;

151 (B) The name, residence, and business address of each director, ultimate equitable
 152 owner, and executive officer;

153 (C) If the applicant has one or more branches or other locations, including but not
 154 limited to locations operated by an authorized agent, at or through which the applicant
 155 proposes to engage in the sale of payment instruments or money transmission within
 156 this state, the complete address of each such location; and

157 (D) The location where its initial registered office will be located in this state, if any;
 158 and

159 (3) Submit such other data, financial statements, and pertinent information as the
 160 department may require with respect to the applicant, its directors, trustees, officers,
 161 members, ultimate equitable owners, subsidiaries, affiliates, or agents.

162 (b) The application for license shall be filed together with:

163 (1) An investigation and supervision fee established by the department through rule or
 164 regulation which shall not be refundable but which, if the license is granted, shall satisfy
 165 the fee requirement for the first licensed year or the remaining part thereof;

166 (2) Items required by other provisions of this article, including but not limited to Code
 167 Sections 7-1-683.2 and 7-1-684; and

168 (3) Other information as may be required by the department.

169 (c) Where a person engages only in the sale of payment instruments issued by another
170 person which is primarily obligated for payment of the payment instrument and the seller
171 is a wholly owned subsidiary of or is wholly owned by the sole shareholder of the issuer,
172 the department may grant a single license naming both the seller and issuer as joint
173 licensees. In such cases, only a single license fee shall be collected and only one corporate
174 surety bond, pursuant to Code Section 7-1-683.2, shall be required where such bond names
175 both the seller and issuer.

176 (d) The department shall pay all fees received from licensees and applicants related to
177 applications, licenses, and renewals to the Office of the State Treasurer; provided, however,
178 that the department may net such fees to recover the cost of participation in the
179 Nation-wide Multistate Licensing System and Registry.

180 (e) The department shall enact rules and regulations regarding the time frame by which all
181 persons must submit an original or renewal application for licensure through the
182 Nation-wide Multistate Licensing System and Registry.

183 7-1-683.1.

184 (a) As authorized by this Code section, a licensee may conduct its business through
185 designated authorized agents at one or more locations in this state, so long as such locations
186 have been included in the licensee's application and reports as required by Code Section
187 7-1-683 and subsection (d) of Code Section 7-1-686. The department may refuse within
188 30 days after application, for cause, to approve a licensee's designation of an authorized
189 agent. In such cases the authorized agent shall have the same procedural rights as are
190 provided in this article for the denial of an application for a license. No additional license
191 other than that obtained by the licensee shall be required of any authorized agent of a
192 licensee. An authorized agent of a licensee shall sell payment instruments or transmit
193 money only at the location designated in the written notice provided to the department.

194 (b) Licensees desiring to conduct licensed activities through authorized agents shall enter
195 into a written contract with the authorized agent. The contract shall authorize the agent to
196 operate only pursuant to the terms of the contract and shall specifically designate the
197 authorized activities that the agent may engage in on behalf of the licensee. Upon request
198 of the department, a licensee shall provide the department with a copy of the executed
199 written contract between the licensee and its authorized agent.

200 (c) Upon the department receiving written notice from the licensee designating an
201 authorized agent, the authorized agent shall be:

202 (1) Required to operate in full compliance with this article, the rules and regulations
203 promulgated under this article, and any applicable order issued by the commissioner;

- 204 (2) Required to timely remit all money legally due to the licensee in accordance with the
205 terms of the written contract between the licensee and the authorized agent;
206 (3) Prohibited from utilizing subagents to carry out its responsibilities;
207 (4) Subject to examination and investigation by the department as set forth in this article,
208 including, but not limited to, the requirements of Code Section 7-1-689;
209 (5) Subject to administrative actions, including, but not limited, the revocation or
210 suspension of its authorization to act as an authorized agent, a cease and desist order, and
211 the imposition of fines; and
212 (6) Required to comply with applicable state and federal law.

213 7-1-683.2.

214 (a) An applicant shall provide with its application a corporate surety bond issued by a
215 bonding company or insurance company authorized to do business in this state and
216 approved by the department. The bond for payment instrument sellers shall be in the
217 principal sum of \$250,000.00. The bond for money transmitters shall be in the principal
218 sum of \$100,000.00.

219 (b) Notwithstanding subsection (a) of this Code section, the department may require an
220 applicant or a licensee to provide additional coverage for the adequate protection of
221 payment instrument holders if the average daily outstanding balances for payment
222 instrument sellers exceed the current bond amount, the average daily outstanding orders
223 to transmit not yet paid for money transmitters exceed the current bond amount, or the
224 department determines that additional coverage is necessary in order to satisfy the
225 department that the provisions of subsection (a) of Code Section 7-1-684 are fulfilled. A
226 licensee's level of outstandings shall be determined by the portion of the licensee's financial
227 reports dealing with transactions originating in Georgia which shall be submitted to the
228 department as set forth in its rules and regulations. However, under no circumstances shall
229 the additional bond coverage required by the department exceed \$2,000,000.00.

230 (c) The bond shall be in a form satisfactory to the department and shall run to the State of
231 Georgia for the benefit of the department or any payment instrument holders against the
232 licensee or its agents. The condition of the bond shall require the licensee to pay any and
233 all moneys for the benefit of any person damaged by noncompliance of a licensee or its
234 agent with this article, with the rules and regulations enacted pursuant to this article, or
235 with any condition of the bond or to pay any and all moneys that may become due and
236 owing any creditor of or claimant against the licensee arising out of the licensee's sale of
237 payment instruments or money transmission in this state, whether through its own acts or
238 the acts of an agent. Damage payments due under the bond include moneys owed to the
239 department for fees, fines, or penalties. In no event shall the aggregate liability of the

240 surety exceed the principal sum of the face amount of the bond. Claimants against the
241 licensee may bring an action directly on the surety bond.

242 7-1-683.3.

243 (a) The department is authorized to:

244 (1) Participate in the Nation-wide Multistate Licensing System and Registry in order to
245 facilitate the sharing of information and standardization of the licensing and application
246 processes for persons subject to this article;

247 (2) Enter into operating agreements, information sharing agreements, interstate
248 cooperative agreements, and other contracts necessary for the department's participation
249 in the Nation-wide Multistate Licensing System and Registry;

250 (3) Disclose or cause to be disclosed without liability, via the Nation-wide Multistate
251 Licensing System and Registry, applicant and licensee information, including, but not
252 limited to, violations of this article and enforcement actions, to facilitate regulatory
253 oversight across state jurisdictional lines;

254 (4) Request that the Nation-wide Multistate Licensing System and Registry adopt an
255 appropriate privacy, data security, and security breach notification policy that is in full
256 compliance with existing state and federal law; and

257 (5) Establish and adopt, by rule or regulation, requirements for participation by
258 applicants and licensees in the Nation-wide Multistate Licensing System and Registry
259 upon the department's determination that each requirement is consistent with both the
260 public interest and the purposes of this article.

261 (b) The department shall enact rules and regulations establishing a process whereby
262 licensees may challenge information entered by the department on the Nation-wide
263 Multistate Licensing System and Registry.

264 (c) Irrespective of its participation in the Nation-wide Multistate Licensing System and
265 Registry, the department shall retain full and exclusive authority over determinations of
266 whether to grant, renew, suspend, or revoke licenses issued under this article. Nothing in
267 this Code section shall be construed to reduce or otherwise limit such authority.

268 (d) Information disclosed through the Nation-wide Multistate Licensing System and
269 Registry is deemed to be disclosed directly to the department and subject to Code Section
270 7-1-70. Such information shall not be disclosed to the public and shall remain privileged
271 and confidential pursuant to Code Section 7-1-70.

272 7-1-684.

273 (a) The department shall conduct an investigation of every applicant for licensure to
274 determine the financial responsibility, experience, character, and general fitness of such

275 applicant. The department may issue the applicant a license to transmit money or sell
276 payment instruments if the department determines to its general satisfaction that:

277 (1) The applicant is financially sound and responsible and able to transmit money or sell
278 payment instruments in an honest, fair, and efficient manner and with the confidence and
279 trust of the community; and

280 (2) All conditions for licensure set forth in this article or the rules and regulations of the
281 department have been satisfied.

282 (b) The department shall not issue a license or may revoke a license if it finds that the
283 applicant, licensee, or authorized agent; any person who is a director, officer, partner,
284 covered employee, or ultimate equitable owner of the applicant, licensee, or authorized
285 agent; or any individual who directs the affairs of or controls or establishes policy for the
286 applicant, licensee, or authorized agent has been convicted of a felony in any jurisdiction
287 or of a crime which, if committed within this state, would constitute a felony under the
288 laws of this state. For the purposes of this article, a person shall be deemed to have been
289 convicted of a crime if such person shall have pleaded guilty or nolo contendere to a charge
290 thereof before a court or federal magistrate or shall have been found guilty thereof by the
291 decision or judgment of a court or federal magistrate or by the verdict of a jury, irrespective
292 of the pronouncement of sentence or the suspension thereof and regardless of whether first
293 offender treatment without adjudication of guilt pursuant to the charge was entered or an
294 adjudication or sentence was otherwise withheld or not entered on that charge, unless and
295 until such plea of guilty or such decision, judgment, or verdict shall have been set aside,
296 reversed, or otherwise abrogated by lawful judicial process or until probation, sentence, or
297 both probation and sentence of a first offender have been successfully completed and
298 documented or unless the person convicted of the crime shall have received a pardon
299 therefor from the President of the United States or the governor or other pardoning
300 authority in the jurisdiction where the conviction occurred or shall have received an official
301 certification of pardon granted by the state's pardoning body where the conviction occurred
302 which removes the legal disabilities resulting from such conviction and restores civil and
303 political rights.

304 (c) The department shall be authorized to obtain conviction data with respect to any
305 applicant, licensee, or authorized agent, any person who is a director, officer, partner,
306 covered employee, or ultimate equitable owner of the applicant, licensee, or authorized
307 agent, or any individual who directs the affairs of or controls or establishes policy for the
308 applicant, licensee, or authorized agent. The department may submit directly to the
309 Georgia Crime Information Center two complete sets of fingerprints of such person,
310 together with the required records search fees and such other information as may be

311 required. Fees for background checks that the department administers shall be sent to the
312 department by applicants, licensees, and authorized agents together with the fingerprints.
313 (d) Upon request by the department, each applicant, licensee, or authorized agent, any
314 person who is a director, officer, partner, covered employee, or ultimate equitable owner
315 of the applicant, licensee, or authorized agent, or any individual who directs the affairs of
316 or controls or establishes policy for the applicant, licensee, or authorized agent shall submit
317 to the department two complete sets of fingerprints, the required records search fees, and
318 such other information as may be required. Fees for background checks that the
319 department administers shall be submitted to the department by applicants, licensees, and
320 authorized agents together with two complete sets of fingerprints, and the department is
321 authorized to net such fees to recover any costs incurred by the department related to
322 running the background checks. Upon receipt of fingerprints, fees, and other required
323 information, the Georgia Crime Information Center shall promptly transmit one set of
324 fingerprints to the Federal Bureau of Investigation for a search of bureau records and an
325 appropriate report and shall retain the other set and promptly conduct a search of its own
326 records and records to which it has access. The Georgia Crime Information Center shall
327 notify the department in writing of any derogatory finding, including, but not limited to,
328 any conviction data regarding the fingerprint records check, or if there is no such finding.
329 All conviction data received by the department or by the applicant, licensee, or authorized
330 agent shall be used by the party requesting such data for the exclusive purpose of carrying
331 out the responsibilities of this article, shall not be a public record, shall be confidential, and
332 shall not be disclosed to any other person or agency except to any person or agency which
333 otherwise has a legal right to inspect such data. All such records shall be maintained by
334 the department and the applicant, licensee, or authorized agent pursuant to laws regarding
335 such records and the rules and regulations of the Federal Bureau of Investigation and the
336 Georgia Crime Information Center, as applicable. As used in this Code section, 'conviction
337 data' means a record of a finding, verdict, or plea of guilty or plea of nolo contendere with
338 regard to any crime, regardless of whether an appeal of the conviction has been sought.
339 (e) Every applicant and licensee shall be authorized and required to obtain and maintain
340 the results of background checks on covered employees. Such background checks shall be
341 handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and
342 the rules and regulations of the Georgia Crime Information Center. Applicants and
343 licensees shall be responsible for any applicable fees charged by the Georgia Crime
344 Information Center. An applicant or licensee may only employ a person whose
345 background data has been checked and has been found to be in compliance with all lawful
346 requirements prior to the initial date of hire. This provision does not apply to directors,
347 officers, partners, or ultimate equitable owners of applicants or licensees or to persons who

348 direct the affairs of or control or establish policy for applicants or licensees, whose
349 background shall have been investigated through the department before taking office,
350 beginning employment, or securing ownership. Upon receipt of information from the
351 Georgia Crime Information Center that is incomplete or that indicates a covered employee
352 has a criminal record in any state other than Georgia, the employer shall submit to the
353 department two complete sets of fingerprint cards for such person, together with the
354 applicable fees and any other required information. The department shall submit such
355 fingerprints as provided in subsection (d) of this Code section.

356 (f) Upon request by the department, an applicant, licensee, or authorized agent shall take
357 all steps necessary to have an international criminal history background check performed
358 on any directors, officers, partners, covered employees, or ultimate equitable owners of
359 applicants, licensees, or authorized agents or persons who direct the affairs of or control
360 or establish policy for applicants, licensees, or authorized agents. The results of such
361 international criminal history background check shall be provided to the department.

362 (g) Applicants and licensees shall have the primary responsibility for obtaining
363 background checks on covered employees. The department shall be entitled to review the
364 files of any applicant or licensee to determine whether the required background checks
365 have been run and whether all covered employees are qualified. The department shall be
366 authorized to discuss the status of employee background checks with applicants, licensees,
367 and authorized agents. Notwithstanding any other provisions in this article, the department
368 shall retain the right to obtain conviction data on covered employees of applicants,
369 licensees, and authorized agents.

370 (h) The department may use the Nation-wide Multistate Licensing System and Registry
371 as a channeling agent for requesting information from and distributing information to the
372 United States Department of Justice, any governmental agency, or any source so directed
373 by the department.

374 7-1-684.1.

375 Each licensee shall submit to the Nation-wide Multistate Licensing System and Registry
376 timely reports of condition, which shall be in such form and contain such information as
377 the department and the Nation-wide Multistate Licensing System and Registry may require.

378 7-1-684.2.

379 The unique identifier of any licensee shall be clearly labeled on all advertisements and any
380 other documents required by rule or regulation of the department.

381 7-1-685.

382 Except as otherwise specifically provided in this article, all licenses issued pursuant to this
383 article shall expire on December 31 of each year, and each application for renewal shall be
384 made annually on or before December 1 of each year. A license may be renewed by the
385 filing of an application substantially conforming to the requirements of Code Section
386 7-1-683 as specifically modified in the department's rules and regulation. No investigation
387 fee shall be payable in connection with such renewal application. However, an annual
388 license fee established by rule or regulation of the department to defray the cost of
389 supervision shall be paid with each renewal application and shall not be refunded or
390 prorated.

391 7-1-686.

392 (a) A license issued pursuant to this article shall be kept conspicuously posted in the place
393 of business of the licensee. If the licensee has no physical location in this state, then a copy
394 of such license and the licensee's unique identifier shall be clearly posted and accessible
395 through whichever medium the licensee engages in the sale of payment instruments or
396 money transmission in this state.

397 (b) Such license shall not be transferable or assignable.

398 (c) No licensee shall engage in the sale of payment instruments or money transmissions
399 under any name or names other than those authorized by the department in writing.

400 (d) A licensee shall give written notice to the department of its intent to operate any new
401 or additional locations, including, but not limited to, locations operated by an authorized
402 agent, not reported in either its original or renewal application. The required notice shall
403 be provided to the department no later than 30 days after the licensee or authorized agent
404 engages in the sale of payment instruments or money transmission at any new or additional
405 locations.

406 7-1-687.

407 (a) A licensee shall give written notice to the department by registered or certified mail of
408 any action which may be brought against it by any creditor or claimant where such action
409 relates to the activities authorized under this article or involves a claim against the bond
410 filed with the department under Code Section 7-1-683.2. The notice shall provide details
411 sufficient to identify the action and shall be sent within 30 days after the commencement
412 of any such action. The licensee shall also give notice to the department by registered or
413 certified mail within 30 days of the entry of any judgment which may be entered against
414 the licensee.

415 (b) The corporate surety shall, within ten days after it pays any claim to any creditor or
416 claimant, give notice to the department by registered or certified mail of such payment with
417 details sufficient to identify the claimant or creditor and the claim or judgment so paid.
418 Whenever the principal sum of such bond is reduced by one or more recoveries or
419 payments thereon, the licensee shall furnish a new or additional bond so that the total or
420 aggregate principal sum of such bond or bonds shall equal the sum required under Code
421 Section 7-1-683.2 or shall furnish an endorsement duly executed by the corporate surety
422 reinstating the bond to the required principal sum thereof.

423 (c) A bond filed with the department for the purpose of compliance with Code Section
424 7-1-683.2 shall not be canceled by either the licensee or the corporate surety except upon
425 notice to the department by registered or certified mail or statutory overnight delivery,
426 return receipt requested, and such cancellation shall be effective no sooner than 30 days
427 after receipt by the department of such notice and only with respect to any breach of
428 condition occurring after the effective date of such cancellation.

429 (d) A licensee shall give written notice to the department by registered or certified mail
430 within ten days of the following:

431 (1) Any knowledge or discovery of an act prohibited by Code Section 7-1-684 or
432 7-1-691 or subsection (a) of Code Section 7-1-692;

433 (2) The discharge of any employee for actual or suspected misrepresentations, dishonest
434 acts, or fraudulent acts;

435 (3) Any knowledge or discovery of the discharge of a covered employee or an authorized
436 agent for actual or suspected misrepresentations, dishonest acts, or fraudulent acts;

437 (4) Any knowledge or discovery of an administrative, civil, or criminal action initiated
438 by any government entity against the licensee or an authorized agent, any director,
439 officer, partner, or ultimate equitable owner of the licensee or authorized agent, or any
440 individual who directs the affairs of or controls or establishes policy for the licensee or
441 authorized agent; or

442 (5) The filing of a petition by or against the licensee under the United States Bankruptcy
443 Code, 11 U.S.C. Sections 101 through 110, for bankruptcy reorganization or the filing of
444 a petition by or against the licensee for receivership or the making of a general
445 assignment for the benefit of its creditors.

446 7-1-688.

447 (a) Except as provided in this Code section, no person shall become an ultimate equitable
448 owner of any licensee through acquisition or other change in control or become an
449 executive officer of a licensee unless the person has first received written approval for such

450 acquisition, change in control, or designation as an executive officer from the department.

451 In order to obtain such approval, such person shall:

452 (1) File an application with the department in such form as the department may prescribe
453 from time to time;

454 (2) Provide such other information as the department may require concerning the
455 financial responsibility, background, experience, and activities of the applicant, its
456 directors and executive officers, if a corporation, and its members, if applicable, and of
457 any proposed new directors, executive officers, members, or ultimate equitable owners
458 of the licensee; and

459 (3) Pay such application fee as the department may prescribe.

460 (b) The department may prescribe additional requirements for approval of such
461 acquisition, change in control, or designation as an executive officer through rules and
462 regulations.

463 (c) If the application is denied, the department shall notify the applicant of the denial and
464 the reasons for the denial.

465 7-1-689.

466 (a) Each licensee shall make, keep, and use in its business such books, accounts, and
467 records as the department may require to enforce the provisions of this article and the rules
468 and regulations promulgated under it. Each licensee shall preserve such books, accounts,
469 and records for five years or such greater period of time as prescribed in the department's
470 rules and regulations.

471 (b) Records required to be made, kept, and preserved pursuant to subsection (a) of this
472 Code section may be maintained in a photographic, electronic, or other similar form.

473 (c) Records required to be made, kept, and preserved pursuant to subsection (a) of this
474 Code section may be maintained at a location outside of this state so long as such records
475 are produced to the commissioner at the department's main office within ten days of the
476 date of a written request by the department to the licensee.

477 (d) The department shall investigate and examine the affairs, business, premises, and
478 records of any licensee or authorized agent pertaining to the sale of payment instruments
479 or money transmission. The department may conduct such investigations or examinations
480 at least once every 24 months. The department may accept examination reports performed
481 and produced by other state or federal agencies in satisfaction of this requirement unless
482 the department determines that the examinations are not available or do not provide
483 information necessary to fulfill the responsibilities of the department under this article.

484 (e) Notwithstanding subsection (d) of this Code section, the department may alter the
485 frequency or scope of investigations or examinations through rules or regulations

486 prescribed by the department. In addition, if the department determines that based on the
487 records submitted to the department and past history of operations of the licensee in the
488 state such investigations or examinations are unnecessary, then the department may waive
489 such investigations and examinations.

490 (f) In addition to any other authority set forth under this article, the department shall be
491 authorized to conduct investigations and examinations of applicants, licensees, and
492 authorized agents as follows:

493 (1) The department shall have the authority to access, receive, and use any books,
494 accounts, records, files, documents, information, or evidence, including, but not limited
495 to:

496 (A) Criminal, civil, and administrative history information, including nonconviction
497 data;

498 (B) Personal history and experience information, including, but not limited to,
499 independent credit reports obtained from a consumer reporting agency described in the
500 federal Fair Credit Reporting Act, 15 U.S.C. Section 1681a; and

501 (C) Any other documents, information, or evidence the department deems relevant to
502 the inquiry, examination, or investigation regardless of the location, possession, control,
503 or custody of such documents, information, or evidence;

504 (2) The department may review, investigate, or examine any licensee or person subject
505 to this article as often as necessary in order to carry out the purposes of this article;

506 (3) Each licensee or person subject to this article shall make available to the department,
507 upon request, any books and records relating to the activities of selling payment
508 instruments or the transmission of money;

509 (4) No licensee or person subject to investigation or examination under this article shall
510 knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records,
511 documents, files, computer records, evidence or other information; and

512 (5) In order to carry out the purposes of this Code section, the department may:

513 (A) Enter into agreements or relationships with other government officials or
514 regulatory associations in order to improve efficiencies and reduce regulatory burden
515 by sharing resources, documents, records, information, or evidence or by utilizing
516 standardized or uniform methods or procedures;

517 (B) Accept and rely on examination or investigation reports made by other government
518 officials within or outside this state; and

519 (C) Accept audit reports or portions of audit reports made by an independent certified
520 public accountant on behalf of the licensee or person subject to this article covering the
521 same general subject matter as the audit and may incorporate the audit report in the
522 report of examination, report of investigation, or other writing of the department.

523 (g) Each licensee shall pay an examination fee as established by the rules and regulations
524 of the department to cover the cost of an examination or investigation.

525 (h) The department, in its discretion, may:

526 (1) Make such public or private examination or investigation within or outside of this
527 state as it deems necessary to determine whether any person has violated this article, any
528 rule or regulation, or order issued under this article, to aid in the enforcement of this
529 article, or to assist in the prescribing of rules and regulations pursuant to this article;

530 (2) Require or permit any person to file a statement in writing, under oath or otherwise,
531 as to all the facts and circumstances concerning the matter to be investigated;

532 (3) Request any financial data from an applicant or licensee; and

533 (4) Conduct an on-site examination of a licensee or authorized agent at any location of
534 the licensee or authorized agent without prior notice to the licensee or authorized agent.
535 The licensee shall pay all reasonably incurred costs of the examination when the
536 department examines the operations of its authorized agent. The department is authorized
537 to net its out-of-state travel expenses incurred as a result of an examination or
538 investigation of a licensee or authorized agent against the payment from the licensee.

539 (i) For the purpose of conducting any examination or investigation as provided in this
540 Code section, the department shall have the power to administer oaths, to call any party to
541 testify under oath in the course of such examinations or investigations, to require the
542 attendance of witnesses, to require the production of books, accounts, records, documents,
543 and papers, and to take the depositions of witnesses; and for such purposes the department
544 is authorized to issue a subpoena for any witness or for the production of documentary
545 evidence. Such subpoenas may be served by certified mail or statutory overnight delivery,
546 return receipt requested, to the addressee's business mailing address or by examiners
547 appointed by the department or shall be directed for service to the sheriff of the county
548 where such witness resides or is found or where the person in custody of any books,
549 accounts, records, documents, or papers resides or is found.

550 (j) The department may issue and apply to enforce subpoenas in this state at the request
551 of any government agency, department, organization, or entity regulating the sale of
552 payment instruments or money transmission in another state if the activities constituting
553 the alleged violation for which the information is sought would be a violation of this article
554 if the alleged activities had occurred in this state.

555 (k) In case of refusal to obey a subpoena issued under this article to any person, a superior
556 court of appropriate jurisdiction, upon application by the department, may issue to the
557 person an order requiring him or her to appear before the court to show cause why he or
558 she should not be held in contempt for refusal to obey the subpoena. Failure to obey a
559 subpoena may be punished as contempt by the court.

560 (l) Examinations and investigations conducted under this article and information obtained
561 by the department in the course of its duties under this article are confidential, except as
562 provided in this subsection, pursuant to the provisions of Code Section 7-1-70. In addition
563 to the exceptions set forth in subsection (b) of Code Section 7-1-70, the department is
564 authorized to share information obtained under this article with other state and federal
565 regulatory agencies or law enforcement authorities. In the case of such sharing, the
566 safeguards to confidentiality already in place within such agencies or authorities shall be
567 deemed adequate. The commissioner or an examiner specifically designated may disclose
568 such information as is necessary to conduct a civil or administrative investigation or
569 proceeding. Information contained in the records of the department that is not confidential
570 and may be made available to the public either on the department's website or upon receipt
571 by the department of a written request shall include:

572 (1) The name, business address, and telephone, fax, and license numbers of a licensee;

573 (2) The names and titles of the principal officers;

574 (3) The name of the owner or owners thereof;

575 (4) The business address of a licensee's registered agent for service;

576 (5) The name, business address, telephone number, and fax number of all locations of
577 a licensee;

578 (6) The name, business address, telephone number, and fax number of all authorized
579 agents;

580 (7) The terms of or a copy of any bond filed by a licensee;

581 (8) Information concerning any violation of this article, any rule or regulation, or order
582 issued under this article, provided that the information is derived from a final order of the
583 department; and

584 (9) Imposition of an administrative fine or penalty under this article.

585 (m) The authority to conduct an examination or investigation as provided for in this Code
586 section shall remain in effect whether such licensee or person acts or claims to act under
587 any licensing or registration law of this state or claims to act without such authority.

588 (n) In the absence of malice, fraud, or bad faith, a person is not subject to civil liability
589 arising out of furnishing the department with information required by this article or
590 required by the department under the authority granted in this article. No civil cause of
591 action of any nature shall arise against such person:

592 (1) For any information relating to suspected prohibited conduct furnished to or received
593 from law enforcement officials, their agents, or employees or to or from other regulatory
594 or licensing authorities;

595 (2) For any such information furnished to or received from other persons subject to the
596 provisions of this article; or

597 (3) For any information furnished in complaints filed with the department.
 598 (o) The commissioner or any employee or agent of the department shall not be subject to
 599 civil liability, and no civil cause of action of any nature shall exist against such persons
 600 arising out of the performance of activities or duties under this article or by publication of
 601 any report of activities under this Code section.

602 7-1-690.

603 Without limiting the power conferred by Article 1 of this chapter, the department may
 604 make reasonable rules and regulations, not inconsistent with law, for the interpretation and
 605 enforcement of this article.

606

607 7-1-691.

608 It shall be prohibited for any person engaged in the sale of checks or money transmission
 609 in this state, including any person required to be licensed under this article, to:

610 (1) Sell payment instruments as an agent of a principal seller who is not exempt from the
 611 licensure requirements under Code Section 7-1-682 and has not obtained a license
 612 hereunder, and any person who does so shall be deemed to be the principal seller thereof
 613 and not merely an agent and shall be liable to the payment instrument holder or remitter
 614 as the principal seller;

615 (2) Receive, transmit, or handle monetary value on behalf of another or issue a payment
 616 instrument and not be exempt from licensure under Code Section 7-1-682, and any person
 617 who does so shall be liable to the payment instrument holder for the payment thereof to
 618 the same extent as a drawer of a negotiable instrument, whether or not the payment
 619 instrument is a negotiable instrument under Article 3 of Title 11;

620 (3) Fail to transmit moneys received within five business days of receiving such moneys;
 621 or

622 (4) Engage in any activity that would subject a licensee to suspension or revocation of
 623 its license under this article or any activity that the department may prohibit pursuant to
 624 rule or regulation, whether or not the person has a license.

625 7-1-692.

626 (a) The department may suspend or revoke an original or renewal license issued pursuant
 627 to this article or rescind the authorization to act as an authorized agent of a licensee if it
 628 finds that any ground or grounds exist which would require or warrant the refusal of an
 629 application for the issuance or renewal of a license or the authorization to act as an
 630 authorized agent of a licensee if such an application or notification were then before it. The
 631 department may also deny an application, suspend or revoke an original or renewal license

632 issued pursuant to this article, or rescind the authorization to act as an authorized agent of
633 a licensee if it finds that the licensee or the authorized agent has:

634 (1) Committed any fraud, engaged in any dishonest activities, or made any
635 misrepresentation;

636 (2) Violated any provisions of this article, any rule or regulation issued pursuant thereto,
637 any order issued by the department, or any other law in the course of its dealings as a
638 licensee or authorized agent;

639 (3) Made a false statement in an original or renewal application for licensure or failed
640 to give a true reply to a question in an original or renewal application;

641 (4) Demonstrated incompetency or untrustworthiness to act as a licensee or authorized
642 agent;

643 (5) Failed to pay, within 30 days after it becomes final, a judgment recovered in any
644 court by a claimant or creditor in an action arising out of the licensee's business in this
645 state of engaging in the sale of payment instruments or money transmission;

646 (6) Purposely withheld, deleted, destroyed, or altered information requested by an
647 examiner of the department or made false statements or misrepresentations to the
648 department; or

649 (7) Operated in an unsafe or unsound manner.

650 (b) The department shall not issue a license to an applicant, may rescind the authorization
651 to act as an authorized agent of a licensee, and may revoke a license if such applicant,
652 licensee, or authorized agent is subject to or employs any person subject to a final cease
653 and desist order that has been issued within the preceding five years if such order was
654 based on a violation of this article. Each applicant or licensee shall, before hiring a covered
655 employee, examine the department's public records to determine that such covered
656 employee is not subject to a cease and desist order.

657 (c) The department shall not issue a license to an applicant, may rescind the authorization
658 to act as an authorized agent of a licensee, and may revoke a license if such applicant,
659 licensee, or authorized agent is subject to or employs any person whose license issued
660 pursuant to this article was revoked within the preceding five years. Each applicant or
661 licensee shall, before hiring a covered employee, examine the department's public records
662 to determine that such covered employee's license was not revoked.

663 (d) The department shall not issue a license to an applicant, may rescind the authorization
664 to act as an authorized agent of a licensee, and may revoke a license if it finds that any
665 person who is a director, officer, partner, ultimate equitable owner of the applicant,
666 licensee, or authorized agent or any individual who directs the affairs of or controls or
667 establishes policy for the applicant, licensee, or authorized agent has been in one or more

668 of those roles as a licensee whose application has been denied or license revoked or
669 suspended within five years of the date of the application.

670 (e) Notice of the department's intention to enter an order denying an application for a
671 license, rescinding the authorization to act as an authorized agent of a licensee, or
672 suspending or revoking a license shall be given to the applicant, authorized agent, or
673 licensee in writing, sent by registered or certified mail or statutory overnight delivery
674 addressed to the principal place of business of such applicant, authorized agent, or licensee.
675 If a person refuses to accept service of the notice by registered or certified mail or statutory
676 overnight delivery, the notice or order shall be served by the commissioner or the
677 commissioner's authorized representative under any other method of lawful service, and
678 the person shall be personally liable to the commissioner for a sum equal to the actual costs
679 incurred to serve the notice or order. This liability shall be paid upon notice and demand
680 by the commissioner or the commissioner's representative and shall be assessed and
681 collected in the same manner as other fees or fines administered by the commissioner.
682 Within 20 days of the date of the notice of intention to enter an order of denial, suspension,
683 revocation, or rescission under this article, the applicant, authorized agent, or licensee may
684 request in writing a hearing to contest the order. If a hearing is not requested in writing
685 within 20 days of the date of such notice of intention, the department shall enter a final
686 order regarding the denial, suspension, or revocation. Any final order of the department
687 denying an application, suspending or revoking a license, or rescinding authorization to act
688 as an authorized agent shall state the grounds upon which it is based and shall be effective
689 on the date of issuance. A copy thereof shall be forwarded promptly by mail addressed to
690 the principal place of business of such applicant, authorized agent, or licensee.

691 (f) A decision by the department denying an application for license or of an order
692 suspending or revoking a license shall be subject to review in accordance with Chapter 13
693 of Title 50, the 'Georgia Administrative Procedure Act.'

694 (g) Whenever the department initiates an administrative action against a current licensee
695 or an applicant, the department may pursue such action to its conclusion despite the fact
696 that a licensee may withdraw or fail to renew its license or an applicant may withdraw its
697 application.

698 (h) The suspension or revocation of a license under this Code section does not alter,
699 ameliorate, or void a licensee's duties or liabilities under any existing contract entered into
700 by the licensee prior to such suspension or revocation.

701 (i) The provisions of this Code section shall not apply when an application for a license
702 is denied or a license is suspended as provided in Code Section 7-1-693.

703 7-1-693.

704 (a) Where an applicant or licensee has been found to be a borrower in default, as defined
 705 in Code Section 20-3-295, such action shall be sufficient grounds for refusal of a license
 706 or suspension of a license. In such actions, the hearing and appeal procedures provided for
 707 in said Code section shall be the only procedures required under this article. The
 708 department shall be permitted to share, without liability, information on its applications or
 709 other forms with appropriate state agencies to assist them in collecting outstanding student
 710 loan debt.

711 (b) Where an applicant or licensee has been found not in compliance with an order for
 712 child support as provided in Code Section 19-6-28.1 or 19-11-9.3, such action shall be
 713 sufficient grounds for refusal of a license or suspension of a license. In such actions, the
 714 hearing and appeal procedures provided for in Code Section 19-6-28.1 or 19-11-9.3 shall
 715 be the only such procedures required under this article. The department shall be permitted
 716 to share, without liability, information on its applications or other forms with appropriate
 717 state agencies to assist them in recovering child support when required by law.

718 7-1-694.

719 (a) The department may issue an order requiring a person to cease and desist immediately
 720 from unauthorized activities whenever it shall appear to the department that:

721 (1) Except as provided in paragraphs (2) and (3) of this subsection, a person has violated
 722 any law of this state or any order or regulation of the department, and such cease and
 723 desist order shall be final 20 days after it is issued unless the person to whom it is issued
 724 makes a written request within such 20 day period for a hearing;

725 (2) A person not licensed under this article is engaging in or has engaged in activities
 726 requiring licensure under this article, which such cease and desist order shall be final 30
 727 days from the date of issuance, and there shall be no opportunity for an administrative
 728 hearing. If the proper license or evidence of exemption is obtained within the 30 day
 729 period, the order shall be rescinded by the department; or

730 (3) A person licensed under this article has received a notice of bond cancellation under
 731 Code Section 7-1-687, which such cease and desist order shall be final 30 days from the
 732 date of issuance, and there shall be no opportunity for an administrative hearing. In the
 733 event the cease and desist order becomes final, the license shall expire, and if a new
 734 license is desired, the licensee shall be required to make a new application for a license
 735 and pay all applicable fees as if it had never been licensed. If the required surety bond
 736 is reinstated or replaced and such documentation is delivered to the department within the
 737 30 day period following the date of issuance of the order, the order shall be rescinded.

738 (b) The cease and desist order shall be in writing, sent by registered or certified mail or
739 statutory overnight delivery, and addressed to the person's business address and, if the
740 person is an individual, to the individual's personal address. Any cease and desist order
741 sent to a person at its business address and, if an individual, his or her personal address that
742 is returned to the department as 'refused' or 'unclaimed' shall be deemed as received and
743 lawfully served.

744 (c) Any hearing authorized under paragraph (1) of subsection (a) of this Code section shall
745 be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
746 Procedure Act.'

747 (d) Whenever a person shall fail to comply with the terms of a final order or decision of
748 the department issued pursuant to this article, the department may, through the Attorney
749 General and upon notice of three days to such person, petition the principal court for an
750 order directing such person to obey the order of the department within the period of time
751 as shall be fixed by the court. Upon the filing of such petition, the court shall allow a
752 motion to show cause why it should not be granted. After a hearing upon the merits or
753 after failure of such person to appear when ordered, the court shall grant the petition of the
754 department upon a finding that the order of the department was properly issued.

755 (e) Any person who violates the terms of any final order or decision issued pursuant to this
756 article shall be liable for a civil penalty not to exceed \$1,000.00. Each day the violation
757 continues shall constitute a separate offense. In determining the amount of penalty, the
758 department shall take into account the appropriateness of the penalty relative to the size of
759 the financial resources of such person, the good faith efforts of such person to comply with
760 the order, the gravity of the violation, the history of previous violations by such person, and
761 such other factors or circumstances as shall have contributed to the violation. The
762 department may at its discretion compromise, modify, or refund any penalty which is
763 subject to imposition or has been imposed pursuant to this Code section. Any person
764 assessed as provided in this subsection shall have the right to request a hearing into the
765 matter within ten days after notification of the assessment has been served upon the
766 licensee involved; otherwise, such penalty shall be final except as to judicial review as
767 provided in Code Section 7-1-90.

768 (f) Judicial review of any final order or decision of the department entered pursuant to this
769 article shall be available solely in the superior court of the county of domicile of the
770 department.

771 (g) In addition to any other administrative penalties authorized by this article, the
772 department may, by rule or regulation, prescribe administrative fines for violations of this
773 article and any rules and regulations promulgated by the department pursuant to this article.

774 7-1-695.

775 Every payment instrument issued in the conduct of the business regulated by this article
 776 shall be signed by the licensee or its authorized agent, and the licensee shall be liable for
 777 the payment thereof to the same extent as a drawer of a negotiable instrument, whether or
 778 not the payment instrument is a negotiable instrument under Article 3 of Title 11.

779 7-1-696.

780 Any person, partnership, association, or corporation and the several members, officers,
 781 directors, agents, ultimate equitable owners, and employees thereof that shall violate any
 782 of the provisions of this article shall be guilty of a misdemeanor, which shall be punishable
 783 by imprisonment for not more than one year or by a fine of not more than \$500.00, or by
 784 both such fine and imprisonment.

785 7-1-697.

786 Nothing in this article shall limit any statutory or common law right of any person to bring
 787 any action in any court for any act involved in the cashing of payment instruments or the
 788 right of the state to punish any person for any violation of any law.

789 7-1-698.

790 Every license in force and effect under Article 4 of Chapter 1 of this title, relating to sale
 791 of checks and money orders, on the date of enactment of this article shall remain in full
 792 force and effect on the effective date of this article, and all such existing licensees shall be
 793 required to renew their licenses pursuant to Code Section 7-1-685."

794 **SECTION 2.**

795 Said chapter is further amended by repealing Article 4A, relating to the cashing of checks,
 796 drafts, or money orders for consideration, and enacting a new Article 4A to read as follows:

797 "ARTICLE 4A

798 7-1-700.

799 As used in this article, the term:

- 800 (1) 'Cash payment instruments' or 'cashing payment instruments' means to accept a
 801 payment instrument from a person in exchange for monetary value less a fee.
 802 (2) 'Check' means any check, money order, draft, or negotiable demand instrument.
 803 (3) 'Check casher' means an individual, partnership, association, or corporation engaged
 804 in cashing payment instruments for a fee.

- 805 (4) 'Closed-loop transaction' means a transaction where the value or credit is primarily
806 intended to be redeemed for a limited universe of goods, intangibles, services, or other
807 items provided by the issuer of the payment instrument, its affiliates or agents, or others
808 involved in the transaction functionally related to the issuer or its affiliates or agents.
- 809 (5) 'Commissioner' means the commissioner of banking and finance.
- 810 (6) 'Control,' 'controlling,' 'controlled by,' and 'under common control with' means the
811 direct or indirect possession of power to direct or cause the direction of management and
812 policies of a person.
- 813 (7) 'Covered employee' means any employee of a licensee engaged in any function
814 related to cashing payment instruments.
- 815 (8) 'Department' means the Department of Banking and Finance.
- 816 (9) 'Executive officer' means the chief executive officer, president, chief financial officer,
817 chief operating officer, each vice president with responsibility involving policy-making
818 functions for a significant aspect of a person's business, secretary, treasurer, or any other
819 person performing similar managerial or supervisory functions with respect to any
820 organization, whether incorporated or unincorporated.
- 821 (10) 'Fee' means a service charge, benefit, or other consideration, which includes, but is
822 not limited to, cash, the exchange of value in excess of regular retail value, mandatory
823 purchase of goods or services by patrons, or the purchase of catalogue items or coupons
824 or other items indicating the ability to receive goods, services, or catalogue items.
- 825 (11) 'Individual' means a natural person.
- 826 (12) 'Licensee' means a person, including, but not limited to, a check casher, duly
827 licensed under this article to accept payment instruments and exchange them for
828 monetary value for a fee.
- 829 (13) 'Misrepresent' means to make a false statement of a substantive fact. The term may
830 also mean to engage in any conduct which leads to a false belief which is material to the
831 transaction.
- 832 (14) 'Monetary value' means a medium of exchange, whether or not redeemable in
833 money.
- 834 (15) 'Nation-wide Multistate Licensing System and Registry' means a licensing system
835 developed and maintained by the Conference of State Bank Supervisors and the
836 American Association of Residential Mortgage Regulators for the licensing and
837 registration of certain persons engaged in nondepository activities.
- 838 (16) 'Open-loop transaction' means a transaction using a payment instrument with stored
839 value to redeem for goods or services at any location that accepts such payment
840 instrument.

841 (17) 'Payment instrument' means any instrument, order, or device for the payment or
 842 transmission of money or monetary value, whether or not it is a negotiable instrument
 843 under the terms of Article 3 of Title 11, relating to negotiable instruments. The term
 844 includes, but is not limited to, checks, money orders, drafts, stored value cards, and
 845 open-loop transactions. The term does not include closed-loop transactions, credit card
 846 vouchers, letters of credit, or any instrument that is redeemable by the issuer only in
 847 specific goods or services of the issuer.

848 (18) 'Person' means any individual, sole proprietorship, corporation, limited liability
 849 company, partnership, trust, or any other group of individuals, however organized.

850 (19) 'Stored value' means monetary value that is evidenced by an electronic record.

851 (20) 'Ultimate equitable owner' means a person that:

852 (A) Owns, directly or indirectly, a 10 percent or more interest in a corporation or any
 853 other form of business organization;

854 (B) Owns, directly or indirectly, 10 percent or more of the voting shares of any
 855 corporation or any other form of business organization; or

856 (C) Exerts control, directly or indirectly, over a corporation or any other form of
 857 business organization, regardless of whether such person owns or controls such interest
 858 through one or more natural persons or one or more proxies, powers of attorney,
 859 nominees, corporations, associations, limited liability companies, partnerships, trusts,
 860 joint stock companies, other entities or devices, or any combination thereof.

861 (21) 'Unique identifier' means a number or other identifier assigned by protocols
 862 established by the Nation-wide Multistate Licensing System and Registry.

863

864 7-1-701.

865 (a) Pursuant to this article, the department may license a person to cash payment
 866 instruments.

867 (b) No person shall cash payment instruments without first obtaining a license under this
 868 article.

869 (c) Every person that directly or indirectly controls another person that violates subsection
 870 (b) of this Code section, each general partner, executive officer, joint venture, ultimate
 871 equitable owner, or director of such person, and every person occupying a similar status
 872 or performing similar functions as such person violates with and to the same extent as such
 873 person. Any person who directly or indirectly controls a person who violates subsection
 874 (b) of this Code section may avoid liability if such person sustains the burden of proof that
 875 the person did not know and, in the exercise of reasonable care, could not have known of
 876 the existence of the facts by reason of which the original violation is alleged to exist.

877 7-1-701.1.

878 The requirement for licensure set forth in this article shall not apply to:

879 (1) Any state or federally chartered bank, trust company, credit union, savings and loan
880 association, or savings bank with deposits that are federally insured;

881 (2) The United States Postal Service;

882 (3) A state or federal governmental department, agency, authority, or instrumentality and
883 its agents;

884 (4) Any foreign bank that establishes a federal branch pursuant to the International Bank
885 Act, 12 U.S.C. Section 3102;

886 (5) Any person who accepts a payment instrument from a person in exchange for
887 monetary value but does not charge a fee; or

888 (6) An individual employed by a licensee or any person exempted from the licensing
889 requirements of this article when acting within the scope of employment and under the
890 supervision of the licensee or exempted person as an employee and not as an independent
891 contractor.

892 7-1-702.

893 (a) Each applicant for a license under this article shall:

894 (1) Submit an application in writing, which is made under oath and in such form as the
895 department may prescribe;

896 (2) Furnish to the Nation-wide Multistate Licensing System and Registry the following
897 information:

898 (A) The legal name and principal office address of the person applying for the license;

899 (B) The name, residence, and business address of each director, ultimate equitable
900 owner, and executive officer;

901 (C) If the applicant has one or more branches or other locations at or through which the
902 applicant proposes to cash payment instruments within this state, the complete address
903 of each such location; and

904 (D) The location where the initial registered office will be located in this state; and

905 (3) Submit such other data, financial statements, and pertinent information as the
906 department may require with respect to the applicant, its directors, trustees, officers,
907 members, ultimate equitable owners, or agents.

908 (b) The application for license shall be filed together with:

909 (1) An investigation and supervision fee established by rule or regulation which shall not
910 be refundable but which, if the license is granted, shall satisfy the fee requirement for the
911 first licensed year or the remaining part thereof;

912 (2) Items required by other provisions of this article, including but not limited to Code
 913 Section 7-1-703 and subsection (c) of Code Section 7-1-707; and

914 (3) Other information as may be required by the department.

915 (c) The department shall pay all fees received from licensees and applicants related to
 916 applications, licenses, and renewals to the Office of the State Treasurer; provided, however,
 917 that the department may net such fees to recover the cost of participation in the
 918 Nation-wide Multistate Licensing System and Registry.

919 (d) The department shall enact rules and regulations regarding the time frame by which
 920 all persons must submit an original or renewal application for licensure through the
 921 Nation-wide Multistate Licensing System and Registry.

922 7-1-702.1.

923 A mobile payment instrument cashing facility operated by a licensee shall be treated as a
 924 branch location and the operations of the facility shall be conducted in accordance with the
 925 rules and regulations of the department.

926 7-1-702.2.

927 (a) The department is authorized to:

928 (1) Participate in the Nation-wide Multistate Licensing System and Registry in order to
 929 facilitate the sharing of information and standardization of the licensing and application
 930 processes for persons subject to this article;

931 (2) Enter into operating agreements, information sharing agreements, interstate
 932 cooperative agreements, and other contracts necessary for the department's participation
 933 in the Nation-wide Multistate Licensing System and Registry;

934 (3) Disclose or cause to be disclosed without liability, via the Nation-wide Multistate
 935 Licensing System and Registry, applicant and licensee information, including, but not
 936 limited to, violations of this article and enforcement actions, to facilitate regulatory
 937 oversight;

938 (4) Request that the Nation-wide Multistate Licensing System and Registry adopt an
 939 appropriate privacy, data security, and security breach notification policy that is in full
 940 compliance with existing state and federal law; and

941 (5) Establish and adopt, by rule and regulation, requirements for participation by
 942 applicants and licensees in the Nation-wide Multistate Licensing System and Registry,
 943 upon the department's determination that each requirement is consistent with both the
 944 public interest and purposes of this article.

945 (b) The department shall enact rules and regulations establishing a process whereby
946 licensees may challenge information entered by the department into the Nation-wide
947 Multistate Licensing System and Registry.

948 (c) Irrespective of its participation in the Nation-wide Multistate Licensing System and
949 Registry, the department shall retain full and exclusive authority over determinations of
950 whether to grant, renew, suspend, or revoke licenses issued under this article. Nothing in
951 this Code section shall be construed to reduce or otherwise limit such authority.

952 (d) Information disclosed through the Nation-wide Multistate Licensing System and
953 Registry is deemed to be disclosed directly to the department and subject to Code Section
954 7-1-70. Such information shall not be disclosed to the public and shall remain privileged
955 and confidential pursuant to Code Section 7-1-70.

956 7-1-703.

957 (a) The department shall conduct an investigation of every applicant for licensure to
958 determine the financial responsibility, experience, character, and general fitness of such
959 applicant. The department may issue the applicant a license to cash payment instruments
960 if the department determines to its general satisfaction that:

961 (1) The applicant is financially sound and responsible and able to cash payment
962 instruments in an honest, fair, and efficient manner and with the confidence and trust of
963 the community; and

964 (2) All conditions for licensure set forth in this article or the rules and regulations of the
965 department have been satisfied.

966 (b) The department shall not issue a license or may revoke a license if it finds that the
967 applicant or licensee, any person who is a director, officer, partner, agent, covered
968 employee, or ultimate equitable owner of the applicant or licensee, or any individual who
969 directs the affairs of or controls or establishes policy for the applicant or licensee has been
970 convicted of a felony in any jurisdiction or of a crime which, if committed within this state,
971 would constitute a felony under the laws of this state. For the purposes of this article, a
972 person shall be deemed to have been convicted of a crime if such person shall have pleaded
973 guilty or nolo contendere to a charge thereof before a court or federal magistrate or shall
974 have been found guilty thereof by the decision or judgment of a court or federal magistrate
975 or by the verdict of a jury, irrespective of the pronouncement of sentence or the suspension
976 thereof and regardless of whether first offender treatment without adjudication of guilt
977 pursuant to the charge was entered or an adjudication or sentence was otherwise withheld
978 or not entered on that charge, unless and until such plea of guilty or such decision,
979 judgment, or verdict shall have been set aside, reversed, or otherwise abrogated by lawful
980 judicial process or until probation, sentence, or both probation and sentence of a first

981 offender have been successfully completed and documented or unless the person convicted
982 of the crime shall have received a pardon therefor from the President of the United States
983 or the governor or other pardoning authority in the jurisdiction where the conviction
984 occurred or shall have received an official certification of pardon granted by the state's
985 pardoning body where the conviction occurred which removes the legal disabilities
986 resulting from such conviction and restores civil and political rights.

987 (c) The department shall be authorized to obtain conviction data with respect to any
988 applicant or licensee, any person who is a director, officer, partner, agent, covered
989 employee, or ultimate equitable owner of the applicant or licensee, or any individual who
990 directs the affairs of or controls or establishes policy for the applicant or licensee. The
991 department may submit directly to the Georgia Crime Information Center two complete
992 sets of fingerprints of such person, together with the required records search fees and such
993 other information as may be required. Fees for background checks that the department
994 administers shall be sent to the department by applicants and licensees together with the
995 fingerprints.

996 (d) Upon request by the department, each applicant, licensee, any person who is a director,
997 officer, partner, agent, covered employee, or ultimate equitable owner of the applicant or
998 licensee, or any individual who directs the affairs of or controls or establishes policy for
999 the applicant or licensee shall submit to the department two complete sets of fingerprints,
1000 the required records search fees, and such other information as may be required. Fees for
1001 background checks that the department administers shall be submitted to the department
1002 by applicants or licensees together with two complete sets of fingerprints, and the
1003 department is authorized to net such fees to recover any costs incurred by the department
1004 related to running the background checks. Upon receipt of fingerprints, fees, and other
1005 required information, the Georgia Crime Information Center shall promptly transmit one
1006 set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and
1007 an appropriate report and shall retain the other set and promptly conduct a search of its own
1008 records and records to which it has access. The Georgia Crime Information Center shall
1009 notify the department in writing of any derogatory finding, including, but not limited to,
1010 any conviction data regarding the fingerprint records check, or if there is no such finding.
1011 All conviction data received by the department or by the applicant or licensee shall be used
1012 by the party requesting such data for the exclusive purpose of carrying out the
1013 responsibilities of this article, shall not be a public record, shall be confidential, and shall
1014 not be disclosed to any other person or agency except to any person or agency which
1015 otherwise has a legal right to inspect such data. All such records shall be maintained by
1016 the department and the applicant or licensee pursuant to laws regarding such records and
1017 the rules and regulations of the Federal Bureau of Investigation and the Georgia Crime

1018 Information Center, as applicable. As used in this Code section, 'conviction data' means
1019 a record of a finding, verdict, or plea of guilty or plea of nolo contendere with regard to any
1020 crime, regardless of whether an appeal of the conviction has been sought.

1021 (e) Every applicant and licensee shall be authorized and required to obtain and maintain
1022 the results of background checks on covered employees. Such background checks shall be
1023 handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and
1024 the rules and regulations of the Georgia Crime Information Center. Applicants and
1025 licensees shall be responsible for any applicable fees charged by the Georgia Crime
1026 Information Center. An applicant or licensee may only employ a person whose
1027 background data has been checked and has been found to be in compliance with all lawful
1028 requirements prior to the initial date of hire. This provision does not apply to directors,
1029 officers, partners, or ultimate equitable owners of applicants or licensees or to persons who
1030 direct the affairs of or control or establish policy for applicants or licensees, whose
1031 background shall have been investigated through the department before taking office,
1032 beginning employment, or securing ownership. Upon receipt of information from the
1033 Georgia Crime Information Center that is incomplete or that indicates a covered employee
1034 has a criminal record in any state other than Georgia, the employer shall submit to the
1035 department two complete sets of fingerprint cards for such person, together with the
1036 applicable fees and any other required information. The department shall submit such
1037 fingerprints as provided in subsection (d) of this Code section.

1038 (f) Applicants and licensees shall have the primary responsibility for obtaining background
1039 checks on covered employees. The department shall be entitled to review the files of any
1040 applicant or licensee to determine whether the required background checks have been run
1041 and whether all covered employees are qualified. The department shall be authorized to
1042 discuss the status of employee background checks with applicants and licensees.
1043 Notwithstanding any other provisions in this article, the department shall retain the right
1044 to obtain conviction data on covered employees of applicants and licensees.

1045 (g) The department may use the Nation-wide Multistate Licensing System and Registry
1046 as a channeling agent for requesting information from and distributing information to the
1047 United States Department of Justice, any governmental agency, or any source so directed
1048 by the department.

1049 7-1-703.1.

1050 Each licensee shall submit to the Nation-wide Multistate Licensing System and Registry
1051 timely reports of condition, which shall be in such form and shall contain such information
1052 as the department and the Nation-wide Multistate Licensing System and Registry may
1053 require.

1054 7-1-703.2.

1055 The unique identifier of any licensee shall be clearly labeled on all advertisements and any
1056 other documents required by rule or regulation of the department.

1057 7-1-704.

1058 Except as otherwise specifically provided in this article, all licenses issued pursuant to this
1059 article shall expire on December 31 of each year, and each application for renewal shall be
1060 made annually on or before December 1 of each year. A license may be renewed by the
1061 filing of an application substantially conforming to the requirements of Code Section
1062 7-1-702 and the department's rules and regulations. No investigation fee shall be payable
1063 in connection with such renewal application. However, an annual license fee established
1064 by rule or regulation of the department to defray the cost of supervision shall be paid with
1065 each renewal application and shall not be refunded or prorated.

1066 7-1-704.1.

1067 (a) A license issued pursuant to this article shall be kept conspicuously posted in the place
1068 of business of the licensee.

1069 (b) Such license shall not be transferable or assignable.

1070 (c) No licensee shall cash payment instruments under any name or names other than those
1071 authorized by the department in writing.

1072 (d) A licensee shall give written notice to the department of its intent to operate any new
1073 or additional locations not reported in either its original or renewal application. The
1074 required notice shall be provided to the department no later than 30 days after the licensee
1075 first cashed a payment instrument at any new or additional location.

1076 7-1-705.

1077 (a) A licensee shall give written notice to the department by registered or certified mail of
1078 any action which may be brought against it by any creditor or claimant where such action
1079 relates to activities authorized under this article or involves a claim against the bond filed
1080 with the department under subsection (c) of Code Section 7-1-707. The notice shall
1081 provide details sufficient to identify the action and shall be sent within 30 days after the
1082 commencement of any such action. The licensee shall also give notice to the department
1083 by registered or certified mail within 30 days of the entry of any judgment against the
1084 licensee.

1085 (b) A licensee shall give written notice to the department by registered or certified mail
1086 within ten days of the following:

1087 (1) Any knowledge or discovery of an act prohibited by Code Section 7-1-703 or
 1088 7-1-707 or subsection (a) of Code Section 7-1-708;
 1089 (2) The discharge of any employee for actual or suspected misrepresentations, dishonest
 1090 acts, or fraudulent acts; or
 1091 (3) Any knowledge or discovery of an administrative, civil, or criminal action initiated
 1092 by any government entity against the licensee, any of the licensee's directors, officers,
 1093 partners, ultimate equitable owners, or any individual who directs the affairs of or
 1094 controls or establishes policy for the licensee.

1095 7-1-705.1.

1096 (a) Except as provided in this Code section, no person shall become an ultimate equitable
 1097 owner of any licensee through acquisition or other change in control or become an
 1098 executive officer of a licensee unless the person has first received written approval for such
 1099 acquisition, change in control, or designation as an executive officer from the department.

1100 In order to obtain such approval, such person shall:

1101 (1) File an application with the department in such form as the department may prescribe
 1102 from time to time;

1103 (2) Provide such other information as the department may require concerning the
 1104 financial responsibility, background, experience, and activities of the applicant, its
 1105 directors and executive officers, if a corporation, and its members, if applicable, and of
 1106 any proposed new directors, executive officers, members, or ultimate equitable owners
 1107 of the licensee; and

1108 (3) Pay such application fee as the department may prescribe.

1109 (b) The department may prescribe additional requirements for approval of such
 1110 acquisition, change in control, or designation as an executive officer through rules and
 1111 regulations.

1112 (c) If the application is denied, the department shall notify the applicant of the denial and
 1113 the reasons for the denial.

1114 7-1-706.

1115 (a) Each licensee shall make, keep, and use in its business such books, accounts, and
 1116 records as the department may require to enforce the provisions of this article and the rules
 1117 and regulations promulgated under it. Each licensee shall preserve such books, accounts,
 1118 and records for five years or such greater period of time as prescribed in the department's
 1119 rules and regulations.

1120 (b) Records required to be made, kept, and preserved pursuant to subsection (a) of this
 1121 Code section may be maintained in a photographic, electronic, or other similar form.

1122 (c) Records required to be made, kept, and preserved pursuant to subsection (a) of this
1123 Code section may be maintained at a location outside of this state so long as such records
1124 are produced to the commissioner at the department's main office within ten days of the
1125 date of a written request by the department to the licensee.

1126 (d) The department shall investigate and examine the affairs, business, premises, and
1127 records of any licensee pertaining to cashing payment instruments. The department may
1128 conduct such investigations or examinations at least once every 24 months. The
1129 department may accept examination reports performed and produced by other state or
1130 federal agencies in satisfaction of this requirement unless the department determines that
1131 the examinations are not available or do not provide information necessary to fulfill the
1132 responsibilities of the department under this article.

1133 (e) Notwithstanding subsection (d) of this Code section, the department may alter the
1134 frequency or scope of investigations or examinations through rules or regulations
1135 prescribed by the department. In addition, if the department determines that based on the
1136 records submitted to the department and past history of operations of the licensee in the
1137 state such investigations or examinations are unnecessary, then the department may waive
1138 such investigations and examinations.

1139 (f) In addition to any other authority set forth under this article, the department shall be
1140 authorized to conduct investigations and examinations of applicants and licensees as
1141 follows:

1142 (1) The department shall have the authority to access, receive, and use any books,
1143 accounts, records, files, documents, information, or evidence, including, but not limited
1144 to:

1145 (A) Criminal, civil, and administrative history information, including nonconviction
1146 data;

1147 (B) Personal history and experience information, including, but not limited to,
1148 independent credit reports obtained from a consumer reporting agency described in the
1149 federal Fair Credit Reporting Act, 15 U.S.C. Section 1681a; and

1150 (C) Any other documents, information, or evidence the department deems relevant to
1151 the inquiry, examination, or investigation regardless of the location, possession, control,
1152 or custody of such documents, information, or evidence;

1153 (2) The department may review, investigate, or examine any licensee or person subject
1154 to this article as often as necessary in order to carry out the purposes of this article;

1155 (3) Each licensee or person subject to this article shall make available to the department,
1156 upon request, any books and records relating to the activities of cashing payment
1157 instruments;

1158 (4) No licensee or person subject to investigation or examination under this article shall
1159 knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records,
1160 documents, files, computer records, evidence, or other information; and

1161 (5) In order to carry out the purposes of this Code section, the department may:

1162 (A) Enter into agreements or relationships with other government officials or
1163 regulatory associations in order to improve efficiencies and reduce regulatory burden
1164 by sharing resources, documents, records, information, or evidence or by utilizing
1165 standardized or uniform methods or procedures;

1166 (B) Accept and rely on examination or investigation reports made by other government
1167 officials within or outside this state; and

1168 (C) Accept audit reports or portions of audit reports made by an independent certified
1169 public accountant on behalf of the licensee or person subject to this article covering the
1170 same general subject matter as the audit and may incorporate the audit report in the
1171 report of examination, report of investigation, or other writing of the department.

1172 (g) Each licensee shall pay an examination fee as established by the rules and regulations
1173 of the department to cover the cost of an examination or investigation.

1174 (h) The department, in its discretion, may:

1175 (1) Make such public or private examination or investigation within or outside of this
1176 state as it deems necessary to determine whether any person has violated this article, any
1177 rule or regulation, or order issued under this article, to aid in the enforcement of this
1178 article, or to assist in the prescribing of rules and regulations pursuant to this article;

1179 (2) Require or permit any person to file a statement in writing, under oath or otherwise,
1180 as to all the facts and circumstances concerning the matter to be investigated;

1181 (3) Request any financial data from an applicant or licensee; and

1182 (4) Conduct an on-site examination of a licensee at any location of the licensee without
1183 prior notice to the licensee.

1184 (i) For the purpose of conducting any examination or investigation as provided in this
1185 Code section, the department shall have the power to administer oaths, to call any party to
1186 testify under oath in the course of such examinations or investigations, to require the
1187 attendance of witnesses, to require the production of books, accounts, records, documents,
1188 and papers, and to take the depositions of witnesses; and for such purposes the department
1189 is authorized to issue a subpoena for any witness or for the production of documentary
1190 evidence. Such subpoenas may be served by certified mail or statutory overnight delivery,
1191 return receipt requested, to the addressee's business mailing address or by examiners
1192 appointed by the department or shall be directed for service to the sheriff of the county
1193 where such witness resides or is found or where the person in custody of any books,
1194 accounts, records, documents, or papers resides or is found.

1195 (j) The department may issue and apply to enforce subpoenas in this state at the request
 1196 of any government agency, department, organization, or entity regulating cashing payment
 1197 instruments in another state if the activities constituting the alleged violation for which the
 1198 information is sought would be a violation of this article if the alleged activities had
 1199 occurred in this state.

1200 (k) In case of refusal to obey a subpoena issued under this article to any person, a superior
 1201 court of appropriate jurisdiction, upon application by the department, may issue to the
 1202 person an order requiring him or her to appear before the court to show cause why he or
 1203 she should not be held in contempt for refusal to obey the subpoena. Failure to obey a
 1204 subpoena may be punished as contempt by the court.

1205 (l) Examinations and investigations conducted under this article and information obtained
 1206 by the department in the course of its duties under this article are confidential, except as
 1207 provided in this subsection, pursuant to the provisions of Code Section 7-1-70. In addition
 1208 to the exceptions set forth in subsection (b) of Code Section 7-1-70, the department is
 1209 authorized to share information obtained under this article with other state and federal
 1210 regulatory agencies or law enforcement authorities. In the case of such sharing, the
 1211 safeguards to confidentiality already in place within such agencies or authorities shall be
 1212 deemed adequate. The commissioner or an examiner specifically designated may disclose
 1213 such information as is necessary to conduct a civil or administrative investigation or
 1214 proceeding. Information contained in the records of the department that is not confidential
 1215 and may be made available to the public either on the department's website or upon receipt
 1216 by the department of a written request shall include:

- 1217 (1) The name, business address, and telephone, fax, and license numbers of a licensee;
 1218 (2) The names and titles of the principal officers;
 1219 (3) The name of the owner or owners thereof;
 1220 (4) The business address of a licensee's registered agent for service;
 1221 (5) The name, business address, telephone number, and fax number of all locations of
 1222 a licensee;
 1223 (6) The terms of or a copy of any bond filed by a licensee;
 1224 (7) Information concerning any violation of this article, any rule or regulation, or order
 1225 issued under this article, provided that the information is derived from a final order of the
 1226 department; and
 1227 (8) Imposition of an administrative fine or penalty under this article.

1228 (m) The authority to conduct an examination or investigation as provided for in this Code
 1229 section shall remain in effect whether such licensee or person acts or claims to act under
 1230 any licensing or registration law of this state or claims to act without such authority.

1231 (n) In the absence of malice, fraud, or bad faith, a person is not subject to civil liability
 1232 arising out of furnishing the department with information required by this article or
 1233 required by the department under the authority granted in this article. No civil cause of
 1234 action of any nature shall arise against such person:

1235 (1) For any information relating to suspected prohibited conduct furnished to or received
 1236 from law enforcement officials, their agents, or employees or to or from other regulatory
 1237 or licensing authorities;

1238 (2) For any such information furnished to or received from other persons subject to the
 1239 provisions of this article; or

1240 (3) For any information furnished in complaints filed with the department.

1241 (o) The commissioner or any employee or agent of the department shall not be subject to
 1242 civil liability, and no civil cause of action of any nature shall exist against such persons
 1243 arising out of the performance of activities or duties under this article or by publication of
 1244 any report of activities under this Code section.

1245 7-1-706.1.

1246 Without limiting the power conferred by Article 1 of this chapter, the department may
 1247 make reasonable rules and regulations, not inconsistent with law, for the interpretation and
 1248 enforcement of this article.

1249 7-1-707.

1250 (a) No licensee shall deposit with any financial institution a payment instrument it has
 1251 accepted and exchanged for monetary value unless such payment instrument is endorsed
 1252 by the licensee.

1253 (b) No licensee shall receive any payment instrument with payment deferred pending
 1254 collection. Payment shall be made immediately in cash for every payment instrument
 1255 accepted by the licensee and exchanged for monetary value for a fee.

1256 (c) Notwithstanding the provisions of subsection (b) of this Code section, checks may be
 1257 accepted for collection with payment deferred where the licensee has posted a surety bond
 1258 in the same manner as prescribed for licensed money transmitters or licensed payment
 1259 instrument sellers under Code Section 7-1-683.2 and under the same conditions as set forth
 1260 under Code Section 7-1-687. The surety bond shall be in the aggregate amount of
 1261 \$10,000.00 for each location operated by the licensee, if the licensee operates three or
 1262 fewer locations, plus \$5,000.00 per location for the fourth and fifth locations operated by
 1263 the licensee, plus \$1,000.00 for each location operated by the licensee in excess of the fifth
 1264 location. The bond shall be in a form satisfactory to the department and shall run to the
 1265 State of Georgia for the benefit of any claimant against the licensee arising out of the

1266 licensee's business of cashing payment instruments with payment deferred in this state. The
1267 bond shall not be canceled by either the licensee or the corporate surety except upon notice
1268 to the department by registered or certified mail or statutory overnight delivery, return
1269 receipt requested, and such cancellation shall be effective no sooner than 30 days after
1270 receipt by the department of such notice. In no event shall payment of a check be deferred
1271 past the time the licensee has collected on the check. Upon collection, payment shall be
1272 made immediately to the party from whom the licensee accepted the check.

1273 (d) No licensee shall cash payment instruments made payable to a payee other than an
1274 individual unless such licensee has previously obtained appropriate documentation from
1275 the authorized executive officer of such payee clearly indicating the authority of the
1276 individual to cash the payment instrument on behalf of the payee.

1277 (e) No licensee shall cash payment instruments without identification of the bearer of such
1278 instrument, and any person seeking to cash payment instruments shall be required to submit
1279 such reasonable identification as shall be prescribed by the department; provided, however,
1280 that the provisions of this subsection shall not prohibit a licensee from cashing payment
1281 instruments simultaneously with the verification and establishment of the identity of the
1282 presenter by means other than the presentation of identification.

1283 (f) No licensee shall:

1284 (1) Charge a fee for cashing payment instruments in excess of 5 percent of the face
1285 amount of the payment instrument or \$5.00, whichever is greater;

1286 (2) Charge a fee for cashing payment instruments in excess of 3 percent of the face
1287 amount of the payment instrument or \$5.00, whichever is greater, if such payment
1288 instrument is state public assistance or a federal social security benefit made payable to
1289 the bearer of such payment instrument; or

1290 (3) Charge a fee for cashing payment instruments in excess of 10 percent of the face
1291 amount of the payment instrument or \$5.00, whichever is greater, if such payment
1292 instrument is a personal check or money order. For purposes of this subsection, 'personal
1293 check or money order' means a payment instrument drawn against the account of an
1294 individual.

1295 (g) No licensee shall engage in any activity that would subject the licensee to suspension
1296 or revocation of its license pursuant to this article or any activity that the department may
1297 prohibit by rule or regulation.

1298 7-1-707.1.

1299 In every location operated by a licensee, there shall be conspicuously posted and at all
1300 times displayed a notice stating the charges for cashing payment instruments.

1301 7-1-708.

1302 (a) The department may suspend or revoke an original or renewal license issued pursuant
1303 to this article if it finds that any ground or grounds exist which would require or warrant
1304 the refusal of an application for the issuance or renewal of a license if such an application
1305 were then before it. The department may also deny an application or suspend or revoke an
1306 original or renewal license issued pursuant to this article if it finds that the licensee has:

1307 (1) Committed any fraud, engaged in any dishonest activities, or made any
1308 misrepresentation;

1309 (2) Violated any provisions of this article, any rule or regulation issued pursuant thereto,
1310 any order issued by the department, or any other law in the course of its dealings as a
1311 licensee;

1312 (3) Made a false statement in an original or renewal application for licensure or failed
1313 to give a true reply to a question in an original or renewal application;

1314 (4) Demonstrated incompetency or untrustworthiness to act as a licensee;

1315 (5) Failed to pay, within 30 days after it becomes final, a judgment recovered in any
1316 court by a claimant or creditor in an action arising out of the licensee's business of
1317 cashing payment instruments;

1318 (6) Purposely withheld, deleted, destroyed, or altered information requested by an
1319 examiner of the department or made false statements or misrepresentations to the
1320 department; or

1321 (7) Operated in an unsafe or unsound manner.

1322 (b) The department shall not issue a license to an applicant and may revoke a license if
1323 such applicant or licensee is subject to or employs any person subject to a final cease and
1324 desist order that has been issued within the preceding five years if such order was based on
1325 a violation of this article. Each applicant or licensee shall, before hiring a covered
1326 employee, examine the department's public records to determine that such covered
1327 employee is not subject to a cease and desist order.

1328 (c) The department shall not issue a license to an applicant and may revoke a license if
1329 such applicant or licensee is subject to or employs any person whose license issued
1330 pursuant to this article was revoked within the preceding five years. Each applicant or
1331 licensee shall, before hiring a covered employee, examine the department's public records
1332 to determine that such covered employee's license was not revoked.

1333 (d) The department shall not issue a license to an applicant and may revoke a license if it
1334 finds that any person who is a director, officer, partner, ultimate equitable owner of the
1335 applicant or licensee or any individual who directs the affairs of or controls or establishes
1336 policy for the applicant or licensee has been in one or more of those roles as a licensee

1337 whose application has been denied or license revoked or suspended within five years of the
1338 date of the application.

1339 (e) Notice of the department's intention to enter an order denying an application for a
1340 license or suspending or revoking a license shall be given to the applicant or licensee in
1341 writing, sent by registered or certified mail or statutory overnight delivery addressed to the
1342 principal place of business of such applicant or licensee. If a person refuses to accept
1343 service of the notice by registered or certified mail or statutory overnight delivery, the
1344 notice or order shall be served by the commissioner or the commissioner's authorized
1345 representative under any other method of lawful service, and the person shall be personally
1346 liable to the commissioner for a sum equal to the actual costs incurred to serve the notice
1347 or order. This liability shall be paid upon notice and demand by the commissioner or the
1348 commissioner's representative and shall be assessed and collected in the same manner as
1349 other fees or fines administered by the commissioner. Within 20 days of the date of the
1350 notice of intention to enter an order of denial, suspension, or revocation under this article,
1351 the applicant or licensee may request in writing a hearing to contest the order. If a hearing
1352 is not requested in writing within 20 days of the date of such notice of intention, the
1353 department shall enter a final order regarding the denial, suspension, or revocation. Any
1354 final order of the department denying, suspending, or revoking a license shall state the
1355 grounds upon which it is based and shall be effective on the date of issuance. A copy
1356 thereof shall be forwarded promptly by mail addressed to the principal place of business
1357 of such applicant or licensee.

1358 (f) A decision by the department denying an application for license or of an order
1359 suspending or revoking a license shall be subject to review in accordance with Chapter 13
1360 of Title 50, the 'Georgia Administrative Procedure Act.'

1361 (g) Whenever the department initiates an administrative action against a current licensee
1362 or an applicant, the department may pursue such action to its conclusion despite the fact
1363 that a licensee may withdraw or fail to renew its license or an applicant may withdraw its
1364 application.

1365 (h) The suspension or revocation of a license under this Code section does not alter,
1366 ameliorate, or void a licensee's duties or liabilities under any existing contract entered into
1367 by the licensee prior to such suspension or revocation.

1368 (i) The provisions of this Code section shall not apply when an application for a license
1369 is denied or a license is suspended as provided in Code Section 7-1-708.1.

1370 7-1-708.1

1371 (a) Where an applicant or licensee has been found to be a borrower in default, as defined
1372 in Code Section 20-3-295, such action shall be sufficient grounds for denial of an

1373 application or suspension of a license. In such actions, the hearing and appeal procedures
 1374 provided for in said Code section shall be the only procedures required under this article.
 1375 The department shall be permitted to share, without liability, information on its
 1376 applications or other forms with appropriate state agencies to assist them in collecting
 1377 outstanding student loan debt.

1378 (b) Where an applicant or licensee has been found not in compliance with an order for
 1379 child support as provided in Code Section 19-6-28.1 or 19-11-9.3, such action shall be
 1380 sufficient grounds for denial of an application or suspension of a license. In such actions,
 1381 the hearing and appeal procedures provided for in Code Section 19-6-28.1 or 19-11-9.3
 1382 shall be the only such procedures required under this article. The department shall be
 1383 permitted to share, without liability, information on its applications or other forms with
 1384 appropriate state agencies to assist them in recovering child support.

1385 7-1-708.2.

1386 (a) The department may issue an order requiring a person to cease and desist immediately
 1387 from unauthorized activities whenever it shall appear to the department that:

1388 (1) Except as provided in paragraph (2) of this subsection, a person has violated any law
 1389 of this state or any order or regulation of the department, and such cease and desist order
 1390 shall be final 20 days after it is issued unless the person to whom it is issued makes a
 1391 written request within such 20 day period for a hearing; or

1392 (2) A person not licensed under this article is engaging in or has engaged in activities
 1393 requiring licensure under this article, which such cease and desist order shall be final 30
 1394 days from the date of issuance, and there shall be no opportunity for an administrative
 1395 hearing. If the proper license or evidence of exemption is obtained within the 30 day
 1396 period, the order shall be rescinded by the department.

1397 (b) The cease and desist order shall be in writing, sent by registered or certified mail or
 1398 statutory overnight delivery and addressed to the person's business address and, if the
 1399 person is an individual, to the individual's personal address. Any cease and desist order
 1400 sent to a person at its business address and, if an individual, his or her personal address that
 1401 is returned to the department as 'refused' or 'unclaimed' shall be deemed as received and
 1402 lawfully served.

1403 (c) Any hearing authorized under paragraph (1) of subsection (a) of this Code section shall
 1404 be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
 1405 Procedure Act.'

1406 (d) Whenever a person shall fail to comply with the terms of a final order or decision of
 1407 the department issued pursuant to this article, the department may, through the Attorney
 1408 General and upon notice of three days to such person, petition the principal court for an

1409 order directing such person to obey the order of the department within the period of time
1410 as shall be fixed by the court. Upon the filing of such petition, the court shall allow a
1411 motion to show cause why it should not be granted. After a hearing upon the merits or
1412 after failure of such person to appear when ordered, the court shall grant the petition of the
1413 department upon a finding that the order of the department was properly issued.

1414 (e) Any person who violates the terms of any final order or decision issued pursuant to this
1415 article shall be liable for a civil penalty not to exceed \$1,000.00. Each day the violation
1416 continues shall constitute a separate offense. In determining the amount of penalty, the
1417 department shall take into account the appropriateness of the penalty relative to the size of
1418 the financial resources of such person, the good faith efforts of such person to comply with
1419 the order, the gravity of the violation, the history of previous violations by such person, and
1420 such other factors or circumstances as shall have contributed to the violation. The
1421 department may at its discretion compromise, modify, or refund any penalty which is
1422 subject to imposition or has been imposed pursuant to this Code section. Any person
1423 assessed as provided in this subsection shall have the right to request a hearing into the
1424 matter within ten days after notification of the assessment has been served upon the
1425 licensee involved; otherwise, such penalty shall be final except as to judicial review as
1426 provided in Code Section 7-1-90.

1427 (f) Judicial review of any final order or decision of the department entered pursuant to this
1428 article shall be available solely in the superior court of the county of domicile of the
1429 department.

1430 (g) In addition to any other administrative penalties authorized by this article, the
1431 department may, by rule or regulation, prescribe administrative fines for violations of this
1432 article and any rules and regulations promulgated by the department pursuant to this article.

1433 7-1-709.

1434 Any person, partnership, association, or corporation and the several members, officers,
1435 directors, agents, ultimate equitable owners, and employees thereof that shall violate any
1436 of the provisions of this article shall be guilty of a misdemeanor, which shall be punishable
1437 by imprisonment for not more than one year or by a fine of not more than \$500.00, or by
1438 both such fine and imprisonment.

1439 7-1-709.1.

1440 Nothing in this article shall limit any statutory or common law right of any person to bring
1441 any action in any court for any act involved in cashing payment instruments or the right of
1442 the state to punish any person for any violation of any law.

1443 7-1-709.2.
1444 Every license in force and effect under Article 4A of Chapter 1 of this title, relating to
1445 cashing checks, drafts, or money orders for consideration, on the date of enactment of this
1446 article shall remain in full force and effect on the effective date of this article, and all such
1447 existing licensees shall be required to renew their licenses pursuant to Code Section
1448 7-1-704."

1449

SECTION 3.

1450 All laws and parts of laws in conflict with this Act are repealed.